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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,346	07/14/2005	Fabrice Kaczmarek	016906-0401	2806

22428 7590 05/28/2009

FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 05/28/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

### **DETAILED ACTION**

This is the third office action for U.S. Application 10/542,346 for a Holder for Heat Exchanger filed on July 14, 2005.

### ***Election/Restrictions***

Newly submitted claims 12-19 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Applicant is attempting to claims a holder and heat exchanger in combination when previously only the subcombination of a holder was claimed. Also, claim 1 as amended positively recites the elements of the pipe/rib block of the heat exchanger making the claim a combination claims between the holder and heat exchanger, when previously only the subcombination of the holder was claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1, 3-9, and 12-19 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Response to Amendment***

The reply filed on February 26, 2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The pending claims do not read on the elected species. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the

Art Unit: 3632

omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN M. MARSH whose telephone number is (571)272-6819. The examiner can normally be reached on 8:30 am - 7:00 pm (Monday-Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. M./  
Examiner, Art Unit 3632

/Anita M. King/  
Primary Examiner, Art Unit 3632

May 26, 2009

Application/Control Number: 10/542,346  
Art Unit: 3632

Page 4